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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/538,947	03/31/2000	John S. Haikin	36J.P263	9787
5514	7590	02/11/2004	EXAMINER	
FITZPATRICK CELLA HARPER & SCINTO 30 ROCKEFELLER PLAZA NEW YORK, NY 10112			STEPHANY, TIMOTHY J	
			ART UNIT	PAPER NUMBER
			2622	8

DATE MAILED: 02/11/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/538,947

Applicant(s)

HAIKIN, JOHN S.

Examiner

Timothy J. Stephany

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 March 2000.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-54 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6, 9, 10, 17, 19-26, 29, 30, 37-45, 48, 53 and 54 is/are rejected.
- 7) ☒ Claim(s) 7, 8, 11-16, 18, 27, 28, 31-36, 38, 46, 47 and 49-52 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 3.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Allowable Subject Matter

Claims 7, 8, 11-16, 18, 27, 28, 31-36, 38, 46, 47 and 49-52 are potentially allowable over the prior art, which does not describe, disclose, nor suggest the contents therein.

Claims 7, 8, 11-16, 18, 27, 28, 31-36, 38, 46, 47 and 49-52 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Specification

The disclosure is objected to because of the following informalities:

On page 43, the text "CA_MAIN 513 v1" should be removed.

Drawings

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference sign(s) not mentioned in the description: **513** is shown in Figures 5, 7, and 8 but is not referred to. A proposed drawing correction, corrected drawings, or amendment to the specification to add the reference sign(s) in the description, are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Appropriate correction is required.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-4, 10, 21-24, 30 and 41-44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Falk ('120) in view of Rose ('816).

Regarding **claims 1 and 4**, Falk discloses a method for storing a color characterization profile (claim 1: col. 14, lines 3-5) and that these comprise color test patches that are measured (col. 2, lines 46-51), which comprises the elements of a measurement store of color values for color patches, that measurements are made and stored in the measurement store as are set forth in claim 1 of the pending application.

Falk fails to teach that the spatial information of a color patch is sent to the measurement store. The analogous art of Rose adds that the location of each color value for a plurality of pixels, which can be considered patches (col. 26, lines 25-34). Which completes the required steps of claim 1 as well as claim 4.

Given the Falk and Rose art in their structure, function and application to color device calibration, it would have been obvious to those of ordinary skill in the art at or before the time of the invention by the applicant to use the methods to obtain a measurement store for color patches from a color target, holding color values and

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spatial information, and measuring and updating the store with the patch color values, based upon the combined teachings of Falk and Rose.

Regarding **claims 2 and 3**, Falk and Rose disclose the process discussed above in claim 1, and Falk further adds that the method of storage is a data file (abstract, line 6 and Fig. 2). The use of an ASCII data file or IT-8-formatted data file as a means of accomplishing the method or apparatus is obvious. If a small number of potential embodiments come to the mind of one skilled in the art such that it would have been obvious to apply them as a means, then the reference anticipates the claim, and thus is rejected under the same justification as claim 1.

Regarding **claims 21-24 and 41-44**, the means of accomplishing the method or apparatus is implied within it, given that the use of a computer-readable medium (claims 21-24) or a memory (claims 41-44) would be obvious to those of ordinary skill in this art and thus are rejected under the same justification as claims 1-4.

Regarding **claim 10**, Falk and Rose disclose the process discussed above in claim 1, and Rose further adds the use of a monitor (col. 3, lines 61-62).

Regarding **claim 30**, the means of accomplishing the method or apparatus is implied within it, given that the use of a computer-readable medium would be obvious to those of ordinary skill in this art and thus is rejected under the same justification as claim 10.

Claims 5, 25, and 45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Falk ('120) in view of Rose ('816), in further view of Swan ('354).

Falk and Rose disclose the process discussed above in claim 1, but fail to teach that the spatial information includes size information. The analogous art of Swan adds that the physical properties of patches including size and appearance are included in the memory store (col. 4, lines 64-66).

Given the Falk and Rose art in their structure, function and application to color device calibration, and the relation of this to Swan in its use of color patches, that could be applied to the Rose patent for use with monitors, it would have been obvious to those of ordinary skill in the art at or before the time of the invention by the applicant to use the methods to include size information in the memory store, based upon the combined teachings of Falk, Rose and Swan.

Regarding **claims 25 and 45**, the means of accomplishing the method or apparatus is implied within it, given that the use of a computer-readable medium (claim 25) or a memory (claim 45) would be obvious to those of ordinary skill in this art and thus are rejected under the same justification as claim 5.

Claims 6, 9, 26, 29, 53 and 54 are rejected under 35 U.S.C. 103(a) as being unpatentable over Falk ('120) in view of Rose ('816), in further view of Yamaguchi ('872).

Regarding **claims 6 and 9**, Falk and Rose disclose the process discussed above in claim 1, but fail to teach that a copy of the target is made and that the control signal for the color patch is detected. Yamaguchi adds that the control signals are used to

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produce color values (col. 6, lines 56-63) and are stored as control signals (col. 7, lines 60-62).

Given the Falk and Rose art in their structure, function and application to color device calibration, and the relation of this to Yamaguchi in its use of color correction, and due to the identical characteristics of color calibration and correction, it would have been obvious to those of ordinary skill in the art at or before the time of the invention by the applicant to use the method of having a copy of the target made and that a control signal for the color patch is detected and stored, based upon the combined teachings of Falk, Rose and Yamaguchi.

Regarding **claims 26, 29, 53 and 54**, the means of accomplishing the method or apparatus is implied within it, given that the use of a computer-readable medium (claims 26 and 29) or a memory (claims 53 and 54) would be obvious to those of ordinary skill in this art and thus are rejected under the same justification as claims 6 and 9.

Claims 17, 19, 20, 37, 39 and 40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Falk ('120) in view of Rose ('816), in further view of Edge ('206).

Regarding **claims 17, 19 and 20**, Falk and Rose disclose the process discussed above in claim 1, but fail to teach the ability to generate a color patch using the color value from the measurement store (claim 17), and that this can be done for an output color device (claim 19), and that the color reproduction device is characterized using the measurement store (claim 20). The analogous art of Edge adds that a new set of color patches can be generated using input color values (col. 17, lines 9-11) and that this is

done on an imaging system (col. 16, lines 36-39). It is also implied that any such method could be applied to the purposes of characterizing the color reproduction device (col. 18, lines 36-39).

Given the Falk, Rose, and Edge art in their structure, function and application to color device calibration, it would have been obvious to those of ordinary skill in the art at or before the time of the invention by the applicant to use the method of generating a color patch using the color value from the measurement store, and that this can be done for an output color device, and that the color reproduction device is characterized using the measurement store, based upon the combined teachings of Falk, Rose and Edge.

Regarding **claims 37, 39 and 40**, the means of accomplishing the method or apparatus is implied within it, given that the use of a computer-readable medium would be obvious to those of ordinary skill in this art and thus are rejected under the same justification as claims 17, 19, and 20.

Claim 48 is rejected under 35 U.S.C. 103(a) as being unpatentable over Falk ('120) in view of Rose ('816), in further view of Tanaka ('873). Falk and Rose disclose the process discussed above in the rejection of claim 41, but fail to teach the ability format a memory. Tanaka adds that a memory includes format information (claim 6: col. 16, lines 12-13).

Given the Falk and Rose art in their structure, function and application to color device calibration, and the relation of this to Tanaka in its use of color processing, and due to the similar characteristics of color calibration and processing, it would have been

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obvious to those of ordinary skill in the art at or before the time of the invention by the applicant to use the method of formatting the memory store, based upon the combined teachings of Falk, Rose and Tanaka.

Additional Notes

Prior art references Winter ('349), Balasubramanian ('923, '037), Samworth ('698), Burns ('741), Liu ('469), Rolleston ('350), Smilansky ('176), Wolf ('648), Nagatani ('312), Hung ('923), Nakano ('696), Kim ('668), Satou ('465), Aoki ('664), Haikin ('845), Handley ('464) and non-patent references are only included as background sources and were not used in the determination of the validity of the claims contained in the pending application of this office action.


Winter ('349), Balasubramanian ('923, '037), Samworth ('698), Burns ('741), Liu ('469), Rolleston ('350), Smilansky ('176), and Wolf ('648) refer to color calibration; Nagatani ('312), Hung ('923), Nakano ('696), Kim ('668), Satou ('465), and Aoki ('664) relate to color correction and transforms; Haikin ('845) and Handley ('464) refer to color patch location; and Sharma (US 2002/0065843 A1) and Wu (US 2003/0058459 A1) refer to color calibration.

Contact Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Timothy J. Stephany whose telephone number is 703-305-8951. The examiner can normally be reached on 8:30 am - 4:30 pm ET.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward Coles can be reached on 703-305-4712. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


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